VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

REVIEW AND REGULATION LIST **VCAT REFERENCE NO. Z1012/2019**

CATCHWORDS

Nurse — disciplinary allegations concerning conviction for obtaining financial advantage by deception, possession of cannabis and failing to report those charges to the Board — professional misconduct — reprimand and suspension of registration for three months— further disciplinary allegations concerning court findings as to offences relating to firearms and ammunition and further instances of failing to report charges and court outcomes to the Board — reprimand — *Health Practitioner Regulation National Law (Victoria) Act 2009 ss 5, 130, 196.*

APPLICANT	Nursing and Midwifery Board of Australia
RESPONDENT	Graham Kevin Spillard
WHERE HELD	Melbourne
BEFORE	J Smithers, Senior Member M Archibald PSM, Member M Bylhouwer, Member
HEARING TYPE	Hearing
DATE OF HEARING	29 July 2021
DATE OF FINAL SUBMISSION	30 August 2021
DATE OF ORDER	20 September 2021
CITATION	Nursing and Midwifery Board of Australia v Spillard (Review and Regulation) [2021] VCAT 1112

FINDINGS

1 In relation to disciplinary allegation 2, concerning convictions for obtaining financial advantage by deception, possession of cannabis and failing to report those criminal charges to the Board, under s 196(1)(b) of the *Health Practitioner Regulation National Law (Victoria) Act 2009* (National Law), the Tribunal finds that Mr Spillard has behaved in a way which constitutes professional misconduct under (a) of the definition of that term

2 In relation to each of disciplinary allegations 1, 3, 4, 5 and 6, concerning court findings as to firearms and ammunition offences, and further instances of failing to report charges and court outcomes to the Board, under s 196(1)(b) of the National Law, the Tribunal finds that Mr Spillard has behaved in a way which constitutes unprofessional conduct

ORDER

3 Under s 196(2)(a) of the National Law, Mr Spillard is reprimanded in relation to all 6 disciplinary allegations.

4 In addition, under s 196(2)(d) of the National Law, in relation to allegations 2 and 5, Mr Spillard's registration is suspended for three months from the date of this decision.

J Smithers	**M Archibald PSM**	**M Bylhouwer**
Senior Member	**Member**	**Member**

APPEARANCES

For applicant	Mr J Stoller of Counsel
For respondent	Mr D Sala of Counsel

REASONS

INTRODUCTION

1 Mr Spillard is a mental health nurse who allowed himself to become involved in a property development scheme, as part of which he relied on falsified employment and income records to obtain a bank loan in 2016. This led to a conviction (on 5 July 2018) for obtaining financial advantage by deception (hereafter for convenience referred to as 'fraud').

2 In the course of investigating this property development scheme, the police searched his house on 9 August 2016. There they found cannabis and ammunition. This led to a conviction (again, on 5 July 2018) for possession of cannabis. This search also led to a charge of possession of a cartridge of ammunition without a licence. That charge was ultimately dealt with by way of a diversion plan (on 24 July 2018).

3 Mr Spillard eventually notified the applicant (Board) of these charges having been laid on 22 May 2018. This in turn led to two additional *earlier* court findings, relating to possession of a handgun and possession of ammunition in 2015, also coming to the Board's attention for the first time.

4 The criminal charges having been dealt with by the Courts, Mr Spillard now faces the separate process of disciplinary allegations arising out of the same conduct, relating to his registration as a nurse.

5 The Board has brought six disciplinary allegations against Mr Spillard under the *Health Practitioner Regulation National Law* (National Law) arising out of these matters.[1]

6 There is one allegation of professional misconduct in relation to the fraud and possession of cannabis.

7 There are also five allegations of unprofessional conduct. These relate to the firearms offences in 2015 and 2016 respectively, and three instances of Mr Spillard failing to comply with his obligation under s 130 of the National Law to notify the Board within 7 days of having been charged with offences, and of changes to his criminal history in the light of the above matters.

8 Each of the six disciplinary allegations also includes a contention that applicable parts of the *Code of Professional Conduct for Nurses in Australia* applicable from 7 May 2013 – 28 February 2018 (the 2013 Code), or the *Code of Conduct for Nurses,* applicable from 1 March 2018, (the 2018 Code), was breached by the conduct in each case.

9 Following a compulsory conference, this matter comes to the Tribunal with the facts, findings and determinations agreed between the parties, save for one matter. The Board contends Mr Spillard should receive a three month

[1] The National Law as applicable in Victoria is set out as a schedule to the *Health Practitioner Regulation National Law (Victoria) Act 2009.*

suspension in relation to the fraud and possession of cannabis convictions, whereas Mr Spillard contends that is not necessary.

THE CIRCUMSTANCES IN WHICH THE CONDUCT OCCURRED

10 The following statement of relevant events is adapted from the submissions of the Board. It reflects the joint position of both the Board and Mr Spillard.

> Background
>
> From 1984 to 2003, Mr Spillard was employed by Victoria Police. For the majority of that time he was a member of the Special Operations Group within Victoria Police.
>
> Since 2005, Mr Spillard has been an enrolled nurse, during which time he has primarily been employed in mental health services.
>
> 2015 offences
>
> On 3 September 2015, a family member of Mr Spillard located and fired a handgun that Mr Spillard kept hidden under the mattress of his bedroom. That family member then reported their use of the handgun to Victoria Police.
>
> Victoria Police officers attended Mr Spillard's home that day and seized the handgun. Later that day, Victoria Police executed a warrant pursuant to s 146 of the *Firearms Act 1966* (Firearms Act). Victoria Police located and obtained ammunition that Mr Spillard had been storing under his house.
>
> When questioned about the handgun and ammunition, Mr Spillard stated that they were unreturned equipment from his days as a member of Victoria Police.
>
> Mr Spillard stated that his reason for retaining the handgun was out of fear of events that he had witnessed while a Victoria Police member, and that the handgun had been in his home for the past 25 years.
>
> Mr Spillard further stated that he forgot he had retained the ammunition, and that the ammunition had been in his home for the past 20 years.
>
> On that same day, 3 September 2015, Mr Spillard was charged with the following offences:
>
> - that on 3 September 2015, Mr Spillard did possess a general category handgun that was not registered contrary to s 7B(1) of the Firearms Act (**Charge 1**);
> - that on 3 September 2015, without a licence under the Firearms Act, Mr Spillard stored ammunition in an insecure manner contrary to s 129A of the Firearms Act (**Charge 2**).
>
> [These two criminal charges have given rise to **disciplinary allegation 1**.]
>
> Under s 130(1)(a) of the National Law, Mr Spillard was required to notify the Board by 10 September 2015 that he had been charged with

these offences, as they are both punishable by 12 months' imprisonment or more. However, Mr Spillard did not make this report.

[That failure to report is the subject of **disciplinary allegation 4**.]

The Board only became aware of these charges on 5 June 2018 (from a national criminal history check done following Mr Spillard's self-notification of the 2016 offences — see below).

On 21 January 2016, the Magistrates' Court of Victoria placed the Respondent on a diversion plan in respect of those two charges, recording that Mr Spillard had committed the breaches of the Acts referred to in Charge 1 and Charge 2.

On 31 March 2016, Mr Spillard completed an application for renewal of his registration, and stated that there had been no change to his criminal history.

On 27 June 2016, the Magistrates' Court recorded that the diversion plan had been completed and discharged both Charge 1 and Charge 2.

2016 offences

Sometime in 2007, Mr Spillard had a brief, personal relationship with a woman referred to as 'Maria'. Once the relationship ended, the two had limited contact until 2015.

In September 2015, Mr Spillard contacted Maria, requesting that she assist him to sell a house he owned, which was located in Queensland. Around this time, Maria suggested that they purchase, renovate and sell a property together.

In December 2015, Maria purchased a property at auction, located in Reservoir. The property was purchased for approximately $800,000. Maria paid the $40,000 deposit. The settlement date for the purchase of the Reservoir property was listed for approximately 60 days later.

On 27 and 28 January 2016, a home loan application signed by Mr Spillard was submitted to the Australia and New Zealand Banking Group (**ANZ**) for the balance of the purchase price of the Reservoir property.

The home loan application:

- was supported by a number of payslips in Mr Spillard's name for a place called [location] Family Dental; and
- stated that [location] Family Dental paid Mr Spillard $1,890.85 per week, amounting to an annual salary $98,176.

These payslips and statements were false, as Mr Spillard had never worked at any such organisation.

Maria prepared the false payslips and assured Mr Spillard at the time that this was common practice in the real estate industry.

On 24 March 2016, ANZ granted the home loan application and credited $704,000 to Mr Spillard.

In March 2016, Victoria Police commenced a fraud investigation into Maria. As part of that investigation, Mr Spillard was identified as linked to Maria through the ANZ loan.

On 31 May 2016, Mr Spillard completed his annual application for renewal of his registration as a nurse. In response to the question, 'since your last declaration to AHPRA, has there been any change to your criminal history in Australia that you have not declared to AHPRA?', Mr Spillard answered 'no'. That statement was false.

[That failure to notify the Board of a relevant change, namely, the court findings of 21 January 2016 against him in relation to the 2015 firearms and ammunition offences, is the subject of **disciplinary allegation 6.**]

On 9 August 2016, Victoria Police executed a warrant at Mr Spillard's house in [location]. The police located and seized:

- a number of documents relating to the ANZ home loan;
- electronic devices belonging to Mr Spillard; and
- ammunition, flash bang grenades, and a substance that was identified as cannabis.

Mr Spillard was then taken to Sunshine Police Station, interviewed, and released without charge.

Mr Spillard was interviewed the same day, and admitted to the use of false payslips to obtain the home loan on the basis of Maria's assurances that the practice was legitimate.

Mr Spillard also admitted to possession of the flash grenades and ammunition, stating that he believed they had been seized during the warrant execution in September 2015.

During the interview, Mr Spillard also admitted to possession of cannabis for personal use.

On 29 December 2017, Mr Spillard was charged with the following offences:

- using a false document with the intention of inducing another person to accept it as genuine, and by reason of so accepting it to do something to that person's prejudice, contrary to s 83A(2) of the *Crimes Act 1958* (**Crimes Act**) (**Charge 3**) (This charge was subsequently withdrawn.);
- obtaining financial advantage by deception contrary to s 82(1) of the Crimes Act (**Charge 4**);
- possession of a drug of dependence, namely cannabis, contrary to s 73 of the *Drugs, Poisons and Controlled Substances Act 1981* (**Drugs Act**) (**Charge 5**);
- possession of an explosive substance without a lawful excuse, namely three flash bang grenades, contrary to s 317(4) of the

Crimes Act (**Charge 6**). (This charge was subsequently withdrawn.); and

- possession of a cartridge of ammunition without a licence or permit contrary to s 124(1) of the Firearms Act (**Charge 7) (**Charge 7 was remitted to the Magistrates' Court, and ultimately dealt with by Mr Spillard being placed on a diversion plan — see below.)

[Charges 4 and 5 together are the subject of **disciplinary allegation 2**, and charge 7 is the subject of **disciplinary allegation 3**.]

Under s 130(1)(a) of the National Law, Mr Spillard was required to notify the Board by 5 January 2018 that he had been charged with these offences, as they are all punishable by 12 months' imprisonment or more. Mr Spillard did not make this report.

[That failure to report is the subject of **disciplinary allegation 5**.]

The Board only became aware of these charges when he voluntarily notified it on 22 May 2018.

On 21 May 2018, Mr Spillard completed his application for renewal of his registration, and stated that there had been no change to his criminal history.

But the next day, 22 May 2018, Mr Spillard sent a letter to the Board, notifying it that there had been changes to his criminal history. Specifically, Mr Spillard informed the Board that he had been charged with:

- obtaining financial advantage by deception;
- possession of cannabis; and
- possession of a 'smoke/distraction device'.

On 5 June 2018, the Board obtained a national criminal history check confirming this notification. It also disclosed the existence of charges 1 and 2 (relating to the offences concerning the handgun and ammunition found at his home on 3 September 2015-- that had been the subject of the 21 January 2016 diversion plan order by the Magistrates' Court at Heidelberg).

On 5 July 2018, Mr Spillard pleaded guilty to, and was convicted of, Charges 4 and 5 (namely, fraud and possession of cannabis) by the County Court. For the fraud, he was placed on a community corrections order for 18 months, during which he was required to undertake 150 hours of unpaid community work. He was fined $120 for the possession of a drug of dependence.

On 24 July 2018, the Magistrates' Court placed Mr Spillard on a diversion plan in respect of the Charge 7, recording that Mr Spillard had committed a breach of s 124 of the Firearms Act.

On 24 October 2018, the Magistrates' Court recorded that Mr Spillard had completed the diversion plan, and discharged Charge 7.

Notification and investigation

On 19 July 2018, the Board decided to commence an own motion investigation into Mr Spillard pursuant to s 160(1)(b)(ii)(B) of the National Law on the basis that it believed his conduct was or may be unsatisfactory.

On 20 December 2018, the Board wrote to Mr Spillard seeking his response to allegations that:

- he had failed to notify the Board of various criminal charges as required by s 130 of the National Law;
- he had failed to disclose a change in his criminal history as required by s 109 of the National Law; and
- he had been convicted of obtaining financial advantage by deception and possession of a drug of dependence on 5 July 2018.

On 14 January 2019, solicitors for Mr Spillard wrote to the Board with the following reply:

- that Mr Spillard was, at the time, unaware of his obligations under the National Law to notify the Board of a change to his criminal history;
- that Mr Spillard did not believe that charges dealt with by diversion needed to be notified to the Board; and
- that Mr Spillard was convicted of the offences concerned.

On 7 August 2019, the Board wrote to the solicitors for Mr Spillard to notify them that it had identified additional issues for investigation, and seeking his response to allegations that:

- he had failed to notify the Board of various criminal charges as required by s 130 of the National Law;
- he was not a fit and proper person to hold registration as a nurse with regard to his convictions and completion of a diversion plan; and
- he had failed to disclose a change in his criminal history as required by s 109 of the National Law.

On 28 August 2019, solicitors for Mr Spillard wrote to the Board with the following reply:

- that Mr Spillard was, at the time, unaware of his obligations under the National Law to notify the Board of a change to his criminal history;
- that Mr Spillard continues to be a fit and proper person to hold registration as a nurse on the basis that the Court saw fit to discharge some of the relevant offences, and that the offences have no nexus with Mr Spillard's practice as a nurse; and

- that Mr Spillard did not believe that charges dealt with by diversion constituted a change in criminal history.

On 17 October 2019, the Board decided to refer the matter to the Tribunal under s 193(1) of the National Law as it had formed a reasonable belief that Mr Spillard behaved in a way that constitutes professional misconduct.

This decision was notified to Mr Spillard's solicitors on 21 October 2019.

This VCAT disciplinary proceeding was commenced on 23 December 2019.

THE SIX DISCIPLINARY ALLEGATIONS — SUMMARY

11 In summary, the six disciplinary allegations brought by the Board against Mr Spillard relate to the following:

1 Possession of an unregistered handgun and possession of ammunition without a licence, insecurely stored (the 2015 conduct the subject of criminal charges 1 and 2) — unprofessional conduct.

2 Fraud and possession of cannabis (the 2016 conduct the subject of criminal charges 3, 4 and 5) — professional misconduct.

3 Possession of ammunition, (the 2016 conduct the subject of criminal charge 7) — unprofessional conduct.

4 Failure to notify the Board of criminal charges 1 and 2 by 10 September 2015 — unprofessional conduct.

5 Failure to notify the Board of criminal charges 3 — 7 by 5 January 2018 — unprofessional conduct.

6 Failure by Mr Spillard to notify the Board of changes to his criminal history on 31 May 2016 — unprofessional conduct.

FINDINGS

12 In light of the parties' agreement as to the above narrative of relevant events, and our review of the evidence set out in the Tribunal Book, we are comfortably satisfied that the factual allegations are proved.

13 We are also satisfied that the conduct under charge 2, giving rise to the convictions for fraud, and possession of cannabis amounts to professional misconduct within the meaning of (a) of the definition of that term in the National Law. We make this finding on the following basis.

14 First, as both parties agreed, these two convictions clearly amount to unprofessional conduct. Under the National Law, that is conduct of a lesser standard than might reasonably be expected of the practitioner by the public or his peers.

15 Second, we are satisfied that the conduct giving rise to these two convictions is 'substantially' below the standard reasonably expected by a

nurse of Mr Spillard's level of training or experience. The fraud conviction, in particular, is a serious offence. Trustworthiness is an essential characteristic required of nurses. The conviction for possession of cannabis also contributes to this conclusion, given the responsibility that is entrusted to nurses in relation to administration of drugs.

16 We are further satisfied that the conduct covered by disciplinary allegations 1, 3, 4, 5 and 6, arising out of the court outcomes in relation to the firearms/ammunition and Mr Spillard's failures to report, amounts to unprofessional conduct as alleged, and agreed, in each case.

17 We now turn to the question of what determinations the Tribunal should make as a result of these findings on the disciplinary allegations.

DETERMINATIONS

MR SPILLARD'S EVIDENCE

18 Mr Spillard gave oral evidence. He referred to his experiences at the Victoria Police, including the 15 years he spent in the Special Operations Group. As is well-known, this Group tends to be assigned to law enforcement tasks where all other options have been exhausted. It includes high risk arrests, witness protection and sieges. It is obviously a stressful role, and on occasion, involved Mr Spillard being the target of violence. Perhaps understating, Mr Spillard said that after 15 years, there was 'probably a bit of burn out'.

19 Mr Spillard then spent two years as a forensic photographer for the Victoria Police. Similarly, there are aspects of this role which are conducive to adverse mental health impacts.

20 Mr Spillard said it was initially an interest in health and fitness which led him into nursing. He studied for his nursing qualification between 2003 and 2005.

21 Over time, he moved into caring for children with special needs and difficult behaviours, such as aggression, withdrawal and suicidal ideation. This involved one-on-one care. He was well-regarded. References describe him as exhibiting empathy, generosity and professionalism, and achieving gratifying results with very challenging patients.

22 Unfortunately, in October 2017, he was assaulted at work, apparently by a bag containing a battery being swung at him by a delusional patient. He suffered 'multiple head injuries.' Although we received no recent psychologist's report, it seems that this has complicated his mental health recovery.

23 Mr Spillard has been diagnosed as suffering from post-traumatic stress disorder. His current psychologist was seeing him fortnightly, but he has now progressed to less frequent appointments. It is apparent, however, that this treatment will need to continue, as he has some way to go in his

psychological recovery, something he acknowledged, in effect, in giving his evidence.

24 At the conclusion of the hearing, the Board indicated it was inclined to seek, in addition to a reprimand and a three-month suspension, a condition requiring Mr Spillard to undertake psychological treatment. However, after further information was provided to it, as provided for by an order of the Tribunal, the Board indicated on 30 August 2021 that it was satisfied from a further report it had received that Mr Spillard was undertaking long-term psychological treatment of his own volition, and hence, it no longer sought for that condition to be imposed.

BOARD'S SUBMISSIONS

25 The conduct here may be separated broadly into two categories: first, the firearms/ammunition matters (in both 2015 and 2016), and second, the fraud/cannabis offending (2016).

26 Concerning the firearms/ammunition offending, both parties noted that all three of the criminal charges (being charges 1 and 2 from 2015, and charge 7 from 2016) were dealt with by the Court placing Mr Spillard on a diversion plan. It was acknowledged by the Board that this outcome is unusual on a first occasion, and even more unusual on a second occasion, and that this is indicative of the mitigating circumstances referred to above being acknowledged by the Courts in sentencing Mr Spillard.

27 The Board submitted (and Mr Spillard agreed) that it was sufficient for him to receive a reprimand in relation to the court findings concerning the firearms and ammunition offences, and the failures to notify the Board about these.

28 Concerning the fraud, possession of cannabis and failure to report having been charged with those offences (these three being dealt with together, globally), the Board submitted that these were sufficiently serious as to warrant a three-month suspension.

29 Part of its submission was that 'the insight reflected in Mr Spillard's plea of guilty and co-operation in the criminal process is minimised to some extent by an apparent lack of insight reflected in some of his correspondence with the Board'. Here, the Board was referring to statements such as that made in his letter of self-referral of 22 May 2018, in which he said he was charged with obtaining financial advantage by deception 'due to being deceived…'.

MR SPILLARD'S SUBMISSIONS

30 For Mr Spillard, it was contended suspension was not necessary to achieve the ends of protection of the public, and of the reputation of the profession. The submissions on his behalf referred to the positive statements made in sentencing by Judge Gaynor, his service to the community, the fact he made a self-report to the Board on 22 May 2018, his acceptance of the six disciplinary allegations brought against him, some difficult matters he has

had to deal with of a personal and family nature, four personal references prepared for the County Court sentencing hearing, and the adverse mental health impacts he has suffered, as well as his having been an unwitting victim of a manipulative and unscrupulous operator in relation to the property development scheme.

31 We understand that the bank recovered the money it loaned to Mr Spillard. Indeed, he suffered significant financial loss from the whole property development enterprise. The implication was that Mr Spillard, along with others, had been 'taken for a ride' by Maria.

32 The Board conceded that specific deterrence is not applicable here—in the light of the statement by consultant psychiatrist Dr Lester Walton that 'Mr Spillard impresses as uncomplicatedly remorseful'. Also, in her sentencing remarks, Judge Gaynor said:

> In sentencing, I take into account your very early plea of guilty. I take into account your prior excellent history, your assistance to police, and your prospects of rehabilitation which I regard as excellent. I think it is most unlikely a court will ever see you before it again.

33 Her Honour accepted the statements by Mr Spillard's referees that his normal character was that of a lawful, helpful, conscientious and trustworthy man.

COMPARABLE CASES

34 The parties referred to several cases involving dishonesty in relation to financial affairs by nurses. *In Nursing and Midwifery Board of Australia v Hawthorne* [2018] VCAT 890, a nurse made substantially inflated insurance claims for two Ford Broncos, totalling in the vicinity of $105,000. She was criminally charged, pleaded guilty, and sentenced to 12 months' jail, wholly suspended. Disciplinary allegations were brought against her in relation to this, and three instances of failing to report the criminal charges brought against her. The Tribunal found she had engaged in professional misconduct in relation to those matters. It took into account her almost 60 years of unblemished and well-regarded service as a nurse, certain aspects of her personal circumstances, and its conclusion that she had been the unwitting victim of a now former friend, and that she had not received any monetary benefit from her conduct. She was reprimanded, suspended for four weeks, and required to undergo specified education.

35 *Pharmacy Board of Australia v Hopkinson* [2018] VCAT 982 involved a pharmacist who defrauded the PBS of $22,000. She was suspended for six months as well as receiving a reprimand, and a mentoring condition.

36 *Health Ombudsman v Chaffey* [2020] QCAT 54 involved a nurse who engaged in social security fraud over six years. She was a single mother with six children, who worked in remote communities. She was found to have engaged in professional misconduct, and received a reprimand (as submitted by the regulator).

37 Care should be taken as to the use which is made of such comparator cases, but in our determination, we have bourne those outcomes in mind together with the other relevant factors.

CONCLUSION

38 Determinations in disciplinary proceedings are a separate matter to sentencing in criminal proceedings. The purpose of determinations in disciplinary proceedings is to protect the public and the reputation of the profession. Where a punitive outcome, such as a suspension of registration is imposed, that is not with the intention of punishing the practitioner, but in order to serve that protective function. The fact that a criminal sanction has been imposed is generally not a factor which should moderate the disciplinary sanction.[2]

39 We accept that a reprimand alone is appropriate for the firearms/ammunition conduct, especially in light of the way in which that conduct was characterised and dealt with in the Courts.

40 However, in our view, the fraud/cannabis offences are in a different category of seriousness. They were dealt with in the County Court, and the sentence was a reasonably substantial one, although falling short of imprisonment, namely, being placed on a community corrections order for 18 months, during which Mr Spillard was required to undertake 150 hours of unpaid community work. He was also fined $120 for the possession of a drug of dependence.

41 Mr Spillard has rightly received recognition for his work in the service of the community, both as a member of the Victoria Police, and as a mental health nurse, dealing with some of the most challenging working environments. By the same token, however, we do not accept that he can credibly contend that he was misled into making the false representation he did in order to secure the home loan. Even as someone who was not experienced in the ways of business, it was obvious that to rely on the forged payslips was fraudulent, and could never be justified. The point is reinforced by the fact that Mr Spillard is a former police officer.

42 We accept that the fraud did not result in the bank being deprived of the funds it had advanced. But the fact is that Mr Spillard obtained the use of $700,000 by blatantly dishonest means. This conduct is starkly at odds with the behaviour which the public expects from nurses. Nurses enjoy a good reputation in the community. This reputation does not relate to their personal caring role alone. There is an expectation of honesty when carrying out that role, but more generally as well. This is reflected, for example, in the fact that nurses have authority to witness some legal documents, such as statutory declarations.

43 Similarly, the possession of cannabis by a nurse has greater implications than for ordinary members of the community, because when a member of a

[2] *Nursing and Midwifery Board v Faulkner* [2018] QCA 97.

respected health profession, such as a nurse, illegally self-medicates with cannabis (he used it to help himself sleep), that tends to undermine the law in relation to drugs of dependence.

44 We also note that the conduct was inconsistent with the Codes of Conduct, as applicable. In particular:

- In that his actions risked adversely affecting both his own and the profession's good reputation and standing in the eyes of the public (Statement 9 of the 2013 Code, and Principle 1.2 of the 2018 Code).
- In that he was unfamiliar with and failed to ensure compliance with the laws relevant to the profession and practice of nursing.

45 These factors make general deterrence of relevance here.

46 In these circumstances, we accept that a suspension of Mr Spillard's right to practise should be imposed, and determine that the period should be three months.

J Smithers	**M Archibald PSM**	**M Bylhouwer,**
Senior Member	**Member**	**Member**